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FM AMEMBASSY RANGOON

TO RUEHC/SECSTATE WASHDC PRIORITY 7235

INFO RUCNASE/ASEAN MEMBER COLLECTIVE

RUEHGG/UN SECURITY COUNCIL COLLECTIVE

RUEHBY/AMEMBASSY CANBERRA 0945

RUEHNE/AMEMBASSY NEW DELHI 4506

RUEHUL/AMEMBASSY SEOUL 8036

RUEHKO/AMEMBASSY TOKYO 5597

RHHMUNA/CDR USPACOM HONOLULU HI

RUEHGV/USMISSION GENEVA 3532

RHEHNSC/NSC WASHDC

RUCNDT/USMISSION USUN NEW YORK 1369

RUEKJCS/SECDEF WASHDC

RUEHBS/USEU BRUSSELS

RUEKJCS/JOINT STAFF WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000153

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STATE FOR EAP AND IO; PACOM FOR FPA

E.O. 12958: DECL: 04/20/2017

TAGS: PGOV PREL PHUM BM

SUBJECT: BURMA: REGIME PUBLISHES REFERENDUM LAW

Classified By: Pol Officer Sean O'Neill for Reasons 1.4 (b) & (d)

11. (C) Summary. The Burmese regime released the law governing its upcoming constitutional referendum today. The law sets forth the rules regarding voter eligibility, procedures for a se'cret ballot, and punishment for those who "interfere" with the process. While the law stated that citizens and most ethnic minorities were eligible to vote, it excluded members of religious orders and anyone serving prison terms, including political prisoners. A hand-picked 45-member commission will oversee the referendum, including selecting the actual date of the vote, which still has not been announced. The NLD declined to comment on the specific provisions of the law but reiterated their position that the regime continued to pursue an illegitimate process that excluded key members of Burmese society. End Summary.

12. (SBU) On February 27, the regime published its Constitution Approval Law governing the conduct of the proposed May referendum. An accompanying statement signed by Than Shwe announced the appointment of a 45-member Referendum Commission led by the country's chief justice. The commission will administer the referendum process, including selecting the date and locations of the vote, conducting a preparatory census, and reporting the results to the SPDC. The law stated that the vote will be conducted by se'cret ballot, and stipulated that at least 10 eligible voters must supervise the vote count in each polling place. There was no mention of whether independent, international observers would be permitted. Local commissions, would report the results from their localities to the 45-member commission who would in turn transmit the results to the SPDC. Military and police commanders were authorized to tally the votes of those under their command. However, while the law mandated that the commission report the number of "yes" votes cast, it did not require that they report the number of votes cast against the draft charter.

13. (SBU) In addition to native-born and naturalized citizens - including most ethnic minorities - temporary registration card holders were listed as eligible voters (note: we will investigate if this covers the Rohingyas we have assisted with TRCs). However, members of religious orders and anyone in prison, including political prisoners, were specifically disqualified from participating in the referendum. The law

also outlawed any activities or speech intended to "disrupt" the referendum and provided for a three-year prison term for those who do (note: law 5/96 already prohibited interference in the roadmap).

¶4. (C) NLD spokesman Thein Nyunt declined to comment on the specifics of the referendum law, but reiterated the NLD's position that the regime's roadmap was an illegitimate process that excluded key members of Burmese society. Than Shwe continued to ignore the opposition and international community's calls for an inclusive, transparent process, he said. Speaking on behalf of the NLD, Thein Nyunt questioned the legitimacy of the drafting commission, asserting that only the 1990 MPs-elect were legally empowered to draft the nation's constitution. Additionally, he pointed out that many of those on the 45-member referendum committee had a vested interest in seeing the charter approved, including several former members of the drafting committee and various regime officials. He noted that the chairman of the referendum committee, Chief Justice U Aung Toe, also served as chairman of the drafting committee and national convention commission, and was considered by many to be in the pocket of the regime.

¶5. (C) Comment. Today's announcement does nothing build confidence that the regime plans a free and fair referendum meeting international standards. To the contrary, instead of encouraging debate, the election law threatens critics with prison terms. Than Shwe continues to dictate the terms and pace of political reform. We see no intention to make Burma more democratic, but rather to perpetuate military rule under the guise of a "disciplined, flourishing democracy." End Summary.

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